End user license agreement - Switzerland
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These End-User License Agreement ("**EULA**") governs the agreement between Luware AG including all its worldwide Affiliates ('**Luware'**) and the End- User (including all its worldwide affiliates) ("**Customer**") of Luware software products or, if applicable, third party software products licensed by Luware ("**Software**").This EULA shall be valid from the date of signature of a valid purchase order or a signed offer ('**Order'**) regarding the licensing of Software.

Both Luware and Customer referred to as '**Party'** or together as '**Parties'** hereinafter.

1 Subject

1.1   Luware grants to Customer a license for the ordered and paid for version of the Software and its accompanying software product description ('**Documentation**') according to the terms and conditions of this EULA. Prices and payment terms are determined by the provisions of the respective Order.

1.2   Customer is purchasing the in the Order defined number of licenses and version of the Software. This does not include updates, upgrades additions, add-on components, enhancements or modifications ('**Update(s)'**). This EULA shall apply to any subsequently purchased Updates accordingly.

1.3   Customer shall ensure its compliance with the applicable laws and regulations. Customer shall hold Luware its directors and employees harmless from and against any claims that may arise out of Customer's violation of the applicable laws and regulations.

1.4   Customer is solely responsible for the proper data backup. Luware shall not be responsible or liable for recovery of any data.

1.5   This EULA shall be binding for Customer and all its affiliates. Customer shall be liable for its affiliates' acts and omissions under this EULA.

2 License

2.1 **Ownership**. The Software and its Documentation (together '**Product'**) as well as any Update(s) purchased pursuant to this EULA and provided hereunder are not in the public domain. Luware, its affiliates and/or its licensors are the owners of all Product intellectual property rights, including in particular, rights in source code and all related documentation, patents, copyrights, trademarks, service marks, internet domain names, trade secrets, database rights, design rights, know-how, techniques, processes, methods, specifications and all other rights of authorship and intellectual and industrial property rights, and other equivalent or similar rights which may subsist anywhere in the world, whether registered or unregistered, including any form of application for any of the foregoing and Customer shall have no right or interests therein.

2.2 **License**. Luware grants to Customer a non-exclusive, non-transferable, non-assignable, perpetual license to use the Software pursuant to the terms of this EULA and to the extent as described in the Order. The license includes the exclusive internal and non-commercial use of the Documentation for reference purposes only.

2.3 **Restrictions**. Customer shall not, without Luware's prior written consent, (i) make any copies of the Product or its content; (ii) sublicense, rent out, reproduce, sell, transfer, market, distribute or disclose the Product to any third party; (iii) install, modify, adapt, improve, extend, update, implement, manipulate with, translate, disassemble, decompile, reverse engineer, or create derivative works of, the Product; (iv) remove, alter or obscure any copyright notice contained in the Product; (v) access,

reproduce or extract the source code or parts thereof out of the Software; or (vi) use the Software other than in accordance with the Documentation and this EULA.

2.4 **Records**. Customer shall keep records which state the licensed Software, its version, its location and the number of copies made. Luware shall be permitted to review these records should Luware, acting reasonably, believe that the Products are not being used in accordance with this EULA.

2.5 **Back-up Copy**. Customer shall be entitled to make one copy of the Product for security and archiving purposes provided that all references to the property rights to the Software are retained.

2.6 **Internal Use**. Customer shall only use the Software for its own internal business operations. Customer agrees to keep the license key strictly confidential and shall not disclose it to any third parties.

2.7 **Payment**. Customer's right to use the Software is subject to the payment of all fees due for the Software according to the Order and the continued compliance with the terms and conditions set out in this EULA. Luware shall send to Customer a license key which activates the Software for use after payment is received.

2.8 **Number of Licenses**. The terms of this EULA are based on the use of the Software for the purchased number of licenses. Luware shall be entitled to invoice additional license fees should the number of users of the Software regularly or permanently exceed the number of purchased licenses. The additional fees are determined based on the then-current list price of the Software.

2.9 **Maintenance and Updates**. Customer shall subscribe to and pay for a valid maintenance agreement after receipt of the license key. Customer shall not be entitled to receive updates and maintenance from Luware if Customer has not subscribed to a valid maintenance agreement after receipt of the license key.

3 Disclaimer

EXCEPT TO THE EXTENT EXPRESSLY STATED HEREUNDER, PROHIBITED BY THE APPLICABLE LAW, OR TO THE EXTENT ANY STATUTORY RIGHTS APPLY THAT CANNOT BE EXCLUDED, LIMITED OR WAIVED, LUWARE AND ITS AFFILIATES (I) MAKE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE REGARDING THE PRODUCTS AND UPDATES (AND ANY COPIES THEREOF) OR OTHERWISE REGARDING THIS EULA; (II) EXCLUDE ALL WARRANTIES, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, QUALITY OR FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, NON-INFRINGEMENT AND SYSTEM INTEGRATION; AND (III) DO NOT GUARANTEE THAT THE SOFTWARE WORKS FREE OF ERRORS.

4 Warranty

4.1 Luware warrants that the Software purchased will operate substantially in accordance with the Documentation for the 12 months following Customer's receipt of the license key to the Software ('**Warranty Period**'). Any errors shall be reported to Luware support (or as otherwise specified in the Order) within five business days of their discovery. Errors within the meaning of this provision are documented and reproducible errors in the Software that considerably lower its value or serviceability for the contractually intended use which is an actual deviation in functionality from the Documentation.

4.2 Luware shall rectify errors reported according to clause 4.1 in due course free of charge. Luware reserves the right to deliver to Customer an Update of the Software or to provide instructions on how to bypass the error.

4.3 Customer shall have the right to withdraw from this EULA if Luware is unable to rectify the error after a second reasonable extension period has been granted to it by Customer. Customer has the right to request rescission of the contract and either Party will return the Products rendered. Further warranty claims of the Customer (such as assertion of claims for damages due to direct or indirect financial losses and/or consequential damages) are excluded.

4.4 This warranty is the exclusive warranty from Luware and replaces all other warranties, including implied warranties, if any, or conditions of satisfactory quality, merchantability, non-infringement, and fitness for a particular purpose. Luware warranties shall not apply if there has been misuse, unauthorized modification, damage not caused by Luware, Customer's failure to comply with applicable law and regulations or the Documentation provided by Luware, or if otherwise stated herein.

4.5 Customer's warranty claims expire 12 months after receipt of the license key to the Software. Statutory provisions are applicable in cases of intent or gross negligence, malice, injury to life, body and health, defect of title and/or in cases of liability under the German Product Liability Act.

5 Limitation of Liability

5.1 Luware's maximum liability for direct damages arising out of or in connection with this EULA during the term of this EULA, whether in contract, tort (including negligence), statutory or otherwise, shall be expressly limited to lower amount of either (a) the fees paid under any Order for licenses hereunder during the 12 months preceding the date on which the cause for liability arose; or (b) 50'000 CHF.

5.2 In no event shall Luware or any of its employees or agents have any liability for indirect, exemplary, special or consequential damages (including but not limited to lost profit, anticipated profit, revenue, business, value, customers, opportunities, anticipated savings, goodwill, reputation, use or data). Luware shall not be responsible for any damages arising in connection with Customer's inability to use the Products other than where expressly stated herein.

5.3 Luware's liability is unlimited for damages caused by intent or gross negligence regardless of their legal nature. Luware is fully liable for culpable damages to life or for damages caused according to the product liability act.Indemnification

5.4 Luware's liability for subprocessors according to Art. 101 CO (Swiss Code of Obligations) shall be excluded.

6 Indemnification

6.1 Luware is not aware of any third-party rights that hinder Customer's right of use hereunder. If claims are asserted against Customer based on violation of a third party intellectual property right in connection with the Software, then Customer shall promptly notify Luware of such a claim in writing. Luware will defend such claims at its own cost and expense and hold Customer harmless, provided that Customer (i) has notified Luware in due course of the asserted claim in writing; (ii) takes all reasonable and feasible actions to help defend against the claim; and (iii) does not or has not consent(ed) to entry of any judgement or settlement related to such claim.

6.2 If Customer is legally prohibited from using the Software then Luware can, at its own discretion and cost, either (i) procure a right of use in favor of Customer for the purposes of this EULA; (ii) replace or modify affected Software which enables Customer a use within the means of this EULA; (iii) deliver an Update which does not violate any third party rights and assures Customer the right of use within the means of this EULA; or (iv) reimburse Customer for payments already made starting from the time where the affected Software could no longer be used for reasons of infringement.

6.3 The Indemnity set out above shall not apply in relation to any infringement which (i) results from the use of the Software in combination with other equipment not supplied by Luware; (ii) is due to a modification made to the Software by Customer not authorized by Luware in writing; or (iii) which is due to a failure of Customer to abide to the Documentation or this EULA.

7 Confidentiality

Customer acknowledges and agrees that the Product and all other information related thereto or disclosed or delivered to it in connection with this EULA ("**Luware Information**") are Luware and its licensors' confidential and proprietary information. Customer agrees to keep Luware Information strictly confidential by exercising the necessary care required to prevent its disclosure. Notwithstanding the above, Customer shall not sell, assign, disclose, divulge, distribute, publish, transmit, commercially exploit, market or transfer Luware Information to any third party or use Luware Information for any purpose whatsoever other than as expressly authorized herein. This provision shall survive termination of this EULA.

8 Compliance with Laws

8.1 Customer shall ensure its compliance with the applicable laws and regulations (including all jurisdictions where it operates). Customer shall comply with all laws directly or indirectly applicable to its activities hereunder or otherwise pursuant to or in connection with this EULA and shall provide any required notifications to data subjects, and obtain all consents from such data subjects in accordance with all applicable laws and regulations in relation to the collection, use, disclosure, creation and procession of personal data in connection with the use of any Products. Customer shall, in particular, comply with the General Data Protection Regulation (GDPR) (Regulation (EU) 2016/679) as amended from time to time.

8.2 The Products may not be used in any jurisdiction for unlawful, obscene, offensive or fraudulent content or activity, such as advocating or causing harm, interfering with or violating the integrity or security of a network or system, evading filters, sending unsolicited, abusive, or deceptive messages, viruses or harmful code, or violating third party rights. If there is a complaint or notice of violation, use may be suspended until resolved, and terminated if not resolved promptly. Customer shall hold Luware and all its Affiliates, directors and employees harmless from and against any claims that may arise out of Customer's violation of the applicable laws and regulations.

8.3 Customer's data security is solely in Customers area of responsibility and Luware shall not be held responsible for any damages caused by system failure and possible consequential damages thereof.

9 Final Provisions

9.1 Any use of the Software beyond the provisions of this EULA shall be strictly prohibited. Luware reserves the right to terminate the licenses provided hereunder upon ten days notice and failure to

cure a breach of any of the terms of this EULA. Upon termination of this EULA for any reason, Customer shall immediately return the Software to Luware and Luware shall not be obliged to refund any fees paid hereunder.

9.2 Amendments and/or additions to these provisions shall only be valid if they are in writing and signed by authorized representatives of both Parties. Any amendments and/or additions to this EULA shall not affect the validity of the remainder of this EULA.

9.3 If parts or provisions of this EULA are invalid or legally void, the remainder of this EULA shall remain in effect. Invalid or legally void parts or provisions shall be interpreted or supplemented in such a way that the intent of this EULA is preserved and the invalid or legally void part or provision is substituted with a provision that comes as close as legally possible to the original intent of the invalid or legally void part or provision.

9.4 This EULA shall be governed by and be construed in accordance with the laws of Switzerland under the explicit exclusion of the UN Convention on Contracts for the International Sale of Goods. Place of jurisdiction is Zurich subject to mandatory legal provisions.